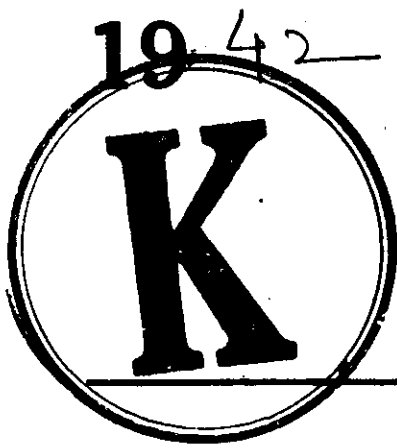




File No. B. Pri. Ed. Bom/42

Legal DEPARTMENT

B BRANCH

P 8-E

Subject:—

— Governor's Bill No. XII of 1942 —

A Bill to amend the Bombay
Primary Education Act, 1923

(Amendment of Sec. 3)

Bom. XII of 1942

File No. B. Pri. Ed. Bom/42

Std. Sectt. Slip 24-B

Bom XII of 1942 398-B

CONTENTS.

Legal Department File No. D. Prin. Edu. Div./42.

Sr.	Compilation	Subject.	Pages.
No.	No.		

A Bill to amend the D. Prin. Edu. Act, 1933.

1.	U.A. to ^{E.D.} S.P. No. 9757 dt. 23.11.41	Draft Bill.	1- 5.
2.	U.A. to EC. No. 3515 dt. 24.6.42.	Notin w/s 92(1) O. of L. Act, 1933.	7- 9.
3.	R.P. No. 4303 dt. 6.9.42.	Governor's Assent to the Bill.	11.
4.	G.O. L.D. No. 3323 dt. 6.9.42.	Publication of Act, No. XII of 1942.	13- 17.
5.	—————	Governor's Bill No. XII of 1942.	19- 29.
6.	—————	Dom. Act. No. XII of 1942.	31- 42.

in
215
 K.S.R.
215

Office of the R.L.A.

A revised draft Bill is appended.

2. There is no provision in the Bombay Primary Education Act which requires that the representatives of the Municipalities elected under the proviso to section 3(2) of the Act should be members of such municipalities. In order, however, to leave no room for doubt a provision may be added to the proviso to the effect that such representatives need not necessarily be members of the municipalities. The draft Bill provides accordingly. In view of this provision it would be competent to Government to nominate any person on the school board, whether such person is a member of the municipality or not.

3. The Bill requires, under executive instructions, the previous approval of the Governor General before enactment. The subject/matter of the Bill falls under entry 17 in the Provincial Legislative List. None of the provisions of the Bill is repugnant to any provision of any existing Indian law relating to any matter in the Concurrent Legislative List and the Bill does not require to be reserved for the consideration of the Governor General with reference to section 107(2) of the Government of India Act.

Sd/— P.N. MOOS
19/11

Remembrancer of Legal Affairs.

U.R. to E.D. No. 9767 dated the 13th November 1941.

.Legal Department.

The Bill to amend the Bombay Primary Education Act, 1923, has been forwarded separately through the Educational Department to the Secretary to the Governor for obtaining the assent of His Excellency the Governor to the Bill.

2. A draft notification under section 92(1) of the Government of India Act, 1935, for applying the proposed Act to the partially excluded areas in this Province is furnished herewith. The notification should be published in the Bombay Government Gazette on or after the date on which the Act will be published in the Bombay Government Gazette.

Sd/- B.G.H.

for Secretary to the Government of
Bombay,
Legal Department.

U.R. to E.D. No. 3515

dated the 24th April 1942,

~~Notification.~~

NOTIFICATION.

Educational Department:

Bombay Castle,

1942.

No. In exercise of the powers conferred by
sub-section (1) of section 92 of the Government of India Act,
1935 the Governor of Bombay is hereby pleased to direct that
the Bombay Primary Education (Amendment) Act, 1942
(Bom. # of 1942) shall apply to the partially excluded
areas in the Province of Bombay.

* To be filled in by
E.D. before issue.

By order of the Governor of Bombay,

Jt. Secretary to Government.

No. 201(48).
Office of the Governor's Secretary,
Government House,
Bombay, 5th May 1942.

From:

J.B. Irwin, Esquire, DSO., MC., ICS.,
Secretary to the Governor of Bombay.

To:

The Secretary to Government,
Legal Department, Bombay.

Subject: A Bill to amend the Bombay Primary
Education Act, 1923.

Sir,

With reference to your letter No.3514, dated the 24th April 1942, I am directed to return herewith the copy of the Bill to amend the Bombay Primary Education Act, 1923, prepared by His Excellency the Governor under paragraph (2) of the Proclamation, dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, and to state that under the provisions of the aforesaid paragraph, His Excellency the Governor is pleased to declare that he assents to the Bill in the name of His Majesty.

I have the honour to be,
Sir,
Your most obedient servant,

Sd/- J.B. Irwin,

Secretary to the Governor of Bombay.

Act. ^{Primary} Publication of the Bombay Primary
Education (Amendment) Act, 1942.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 3523.

Bombay Castle, 6th May 1942.

Letter to the Secretary to the Governor, No. 3514, dated
24th April 1942.

Letter from the Secretary to the Governor, No. 201(48), dated
the 5th May 1942.

"With reference to your letter No. 3514, dated the 24th April 1942
I am directed to return herewith the copy of the Bill to amend the
Bombay Primary Education Act, 1928, prepared by His Excellency the
Governor under paragraph (2) of the Proclamation, dated the 4th November
1939, issued by him under section 93 of the Government of India Act, 1935
and to state that under the provisions of the aforesaid paragraph, His
Excellency the Governor is pleased to declare that he assents to the Bill
in the name of His Majesty".

RESOLUTION:— The law should be published as Bombay Act No. XII
of 1942, in the Bombay Government Gazette dated the 7th May 1942.

2. The Act should be translated into Marathi, Gujarati, Kannada and
Hindustani (in Urdu and Devnagari scripts) and the translations should be
published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Educational
Department.

By order of the Governor of Bombay.

Sd/- B.G. Mordhashwar.

{ P.N. MOG,
For Secretary to Government.

To

The Manager, Government Central Press, Bombay, (with a copy of the Act
and with a request that 15 gazette copies of the Act may be
forwarded to the Legal Department).

The Educational Department,

* The Oriental Translator to Government.

The Secretary to the Bombay Legislative Council.

The Secretary to the Bombay Legislative Assembly.

} With a
copy of
the Act.

"With five extra copies.



The
Bombay Government Gazette

PUBLISHED BY AUTHORITY.

THURSDAY, 7TH MAY 1942.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

(1) Acts of the Local Legislature of the Bombay
Province and (2) Acts of the Indian Legislature
assented to by the Governor General.

CONTENTS.

	PAGES
BOMBAY ACT No. XII OF 1942—An Act to amend the Bombay Primary Education Act, 1923 	179-180

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by him on the 4th May 1942 is hereby published for general information.

P. N. MOOS,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XII OF 1942.

(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 7th May 1942.)

An Act to amend the Bombay Primary Education Act, 1923.

Bom. IV of 1923. WHEREAS it is expedient to amend the Bombay Primary Education Act, 1923, for the purpose hereinafter appearing;

26 Geo. 5 Ch. 2. AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. This Act may be called the Bombay Primary Education (Amendment) Act, 1942. Short title.

Bom. IV of 1923. 2. In section 3 of the Bombay Primary Education Act, 1923— Amendment of section 3 of Bom. IV of 1923.

(a) in sub-section (2), after the words "manner prescribed." the words "Such members shall not necessarily be members of the said municipalities." shall be inserted; and

(b) after sub-section (4), the following new sub-section shall be inserted, namely:—

"(4-A) If the Provincial Government is satisfied that any election cannot for any reason be held at all or cannot be completed within such period as the Provincial Government considers reasonable or has not resulted in the return of the required number of qualified persons willing to take office, the Provincial Government shall appoint from amongst

persons who would have been qualified to be elected the required number of persons as members of the school board and the persons so appointed shall be deemed to have been duly elected under sub-section (2)."

STATEMENT.

Section 3 of the Bombay Primary Education Act, 1923, deals with the constitution of school boards. Sub-section (1) of this section provides that there shall be a school board for every local authority. Sub-section (2) provides that the board shall be constituted as prescribed and shall consist of members, *not less than 12 and not more than 16* elected by the local authority. The proviso to section 3 (2) provides that, if any primary schools have been transferred by municipalities which are not local authorities to the local authority concerned, not more than two of such members shall be elected by the said municipalities in the manner prescribed. There is no provision in the Act to provide for cases of the following type:—

- (1) when an election cannot be held for some reason or the other ;
- (2) when an election does not result in the return of the requisite number of members ; and
- (3) when the non-local authority municipalities fail to exercise their right of franchise.

The main difficulty is that a new school board cannot begin to function until all its members have been elected. Even if there is only one vacant seat on the new board, the new school board cannot come into existence, and if that seat is not filled in by election, the old board will continue in office perpetually.

It is, therefore, proposed to amend the Bombay Primary Education Act, 1923, to meet this lacuna in the Act and to enable Government to make nominations where such nominations are absolutely necessary. The amendment also provides that the representatives of the municipalities elected under the proviso to section 3 (2) of the Act need not necessarily be members of such municipalities.